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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

GUY GENTILE,

Plaintiff,

v.

U.S. SECURITIES AND EXCHANGE COMMISSION,

Defendant.

Hon. Jose L. Linares

Civil Action No. 19-5155

**DEFENDANT SECURITIES AND EXCHANGE COMMISSION'S NOTICE OF
MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

PLEASE TAKE NOTICE that the United States Securities and Exchange Commission will move before the Honorable Jose L. Linares, U.S.D.J., at a date and time to be determined by the Court, for an Order, pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), dismissing Plaintiff Guy Gentile's Complaint.¹

¹ By Order dated March 8, 2019, the Court ordered the parties "to address any issues concerning proper jurisdiction and/or venue for this matter in their briefing as to a preliminary injunction." March 8, 2019 Order at 2. The SEC argues that plaintiff's complaint should be dismissed, among other reasons, for lack of subject matter jurisdiction. Accordingly, the SEC has framed its response as a memorandum (1) in opposition to plaintiff's motion for preliminary injunction and (2) in support of the SEC's motion to dismiss plaintiff's complaint, and it includes this notice of motion to reflect that it is seeking dismissal.

In support of the motion, Defendant will rely on the attached Defendant Securities and Exchange Commission's Memorandum (1) in Opposition to Plaintiff's Motion for Preliminary Injunction and (2) in Support of its Motion to Dismiss Plaintiff's Complaint, and all other pleadings and proceedings on file.

Please take further notice that a proposed form of Order is submitted herewith.

Date: March 29, 2019

Respectfully Submitted,

/s/ Matthew S. Ferguson

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Certificate of Service

I, Matthew S. Ferguson, hereby certify that, on March 29, 2019, I caused the following documents to be electronically filed and served by ECF on Adam C. Ford and Robert S. Landy, counsel for Plaintiff Guy Gentile:

- Defendant Securities and Exchange Commission's Notice of Motion to Dismiss Plaintiff's Complaint,
- Defendant Securities and Exchange Commission's Memorandum (1) in Opposition to Plaintiff's Motion for Preliminary Injunction and (2) in Support of its Motion to Dismiss Plaintiff's Complaint,
- Declaration of Matthew S. Ferguson in Support of Defendant Securities and Exchange Commission's (1) Opposition to Plaintiff's Motion for Preliminary Injunction and (2) Its Motion to Dismiss Plaintiff's Complaint, and
- [Proposed] Order Granting Defendant Securities and Exchange Commission's Motion to Dismiss Plaintiff's Complaint and Dismissing the Complaint.

Dated: March 29, 2019

By: /s/ Matthew S. Ferguson

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